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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DALMATIA IMPORT GROUP, INC., Plaintiff, v. FOODMATCH, INC., Defendant.	Case No. 16-CV-0933 **JURY TRIAL DEMANDED**

COMPLAINT

Plaintiff Dalmatia Import Group, Inc. ("Plaintiff" or "Dalmatia") brings this action against Defendant FoodMatch, Inc. ("Defendant" or "FoodMatch") for injunctive relief and monetary damages, and on information and belief alleges as follows:

NATURE OF THE ACTION

1. Dalmatia's claims against its former distributor, FoodMatch, arise from FoodMatch's theft of Dalmatia's proprietary fruit spread recipes and production processes, and launch of a copycat line of spreads targeted directly at Dalmatia's long-time customers in an attempt to push Dalmatia out of the very market it created. Dalmatia has commenced this action to stop FoodMatch from exploiting the fruits of its labor through the unauthorized use of its proprietary trade secrets.

2. Plaintiff Dalmatia is a specialty food company that maintains a unique product line inspired by the agriculture and culture of Dalmatia – a district of Croatia on its Adriatic Coast. Dalmatia is the innovator of "fig spread," a food item that has received widespread success and acclaim from consumers, and won numerous industry awards. Based on more than 15 years of dedicated effort building its brand, expanding its product line and promoting "fig spread" as a mainstay in consumers' kitchens, Dalmatia established its status as the leading player in the fig spread market.

3. Dalmatia's considerable success is tied directly to its three best-selling products: "Original Fig Spread, "Orange Fig Spread" and "Sour Cherry Spread." Dalmatia spent years perfecting the recipes and production processes responsible for the unique flavor, texture, consistency and appearance of its spreads. Dalmatia has always maintained the secrecy of its proprietary recipes and production processes, taking substantial measures to safeguard this information.

4. Defendant FoodMatch is a distributor specializing in Mediterranean food items. Dalmatia, in an attempt to further expand its business, entered into an agreement with FoodMatch in 2006 (the "Distribution Agreement"), pursuant to which FoodMatch acted as Dalmatia's exclusive distributor in the United States and used its channels of distribution to increase the scope of Dalmatia's footprint.

5. At various points during the parties' relationship, FoodMatch insisted on gaining access to Dalmatia's proprietary and confidential information, making requests for ingredient percentages, production process flowcharts, and other manufacturing information. These requests were often made under the auspices of customer demands and a purported new industry norm. Believing these requests were legitimate and with a non-disclosure agreement in effect between

the parties, Dalmatia disclosed to FoodMatch its recipes and production processes for its three best sellers.

6. Little did Dalmatia know, as the Distribution Agreement was coming to an end, FoodMatch was developing a copycat line of fruit spreads based on Dalmatia's proprietary recipes and production processes in direct breach of the parties' contracts. FoodMatch's recently introduced Divina line of spreads consists of the same three varieties (fig, fig orange, and sour cherry) as Dalmatia, utilizing the very recipes and production processes that are responsible for creating the characteristics unique to Dalmatia's signature spreads. To make matters worse, FoodMatch is bombarding consumers, many long-time Dalmatia customers, with patently false information about Dalmatia, including communicating to clients that Dalmatia is exiting the business. By spreading this misinformation, FoodMatch is purposefully targeting Dalmatia's customers in order to push Dalmatia's products off the shelves of retailers throughout the country and replace them with Divina's offending products.

7. Within a month of FoodMatch launching the Divina spreads, Dalmatia finds itself facing possible extinction by virtue of having to compete with the very proprietary recipes and production processes it spent over fifteen years developing and protecting. Justice mandates that FoodMatch be stopped immediately from further sabotaging and usurping Dalmatia's business.

8. Accordingly, Dalmatia has commenced this action against FoodMatch seeking injunctive relief, compensatory damages and punitive damages for FoodMatch's misappropriation of Dalmatia's trade secrets, breach of contract and unfair business practices.

THE PARTIES

9. Plaintiff Dalmatia Import Group, Inc. is a corporation organized and existing under the laws of Florida, with its principal place of business located at 28 West Flager Street, Miami, Florida 33130.

10. Defendant FoodMatch, Inc. is a corporation organized and existing under the laws of New York, with its principal place of business located at 575 Eighth Avenue, New York, New York 10018.

JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1). Dalmatia is a citizen of Florida and FoodMatch is a citizen of New York. There is complete diversity of citizenship between Dalmatia and FoodMatch, and the amount in controversy exceeds $75,000, exclusive of interest and costs.

12. This Court has personal jurisdiction over FoodMatch because FoodMatch is a corporation organized under the laws of New York, and has its principal place of business in New York.

13. Venue is proper pursuant to 28 U.S.C. § 1391(b) because FoodMatch resides in this district.

FACTUAL BACKGROUND

I. Dalmatia Builds Its Business And Innovates The Fig Spread Market In The United States

14. Dalmatia is a company co-founded by Neb Chupin ("Mr. Chupin") and Maia Magee ("Ms. Magee") in 1994. Dalmatia's origins are in Croatia – indeed the Dalmatia region of Croatia – where Mr. Chupin grew up and Ms. Magee studied as a teenager. Mr. Chupin's grandfather dedicated his life to Croatian agriculture and was the inspiration behind Dalmatia,

which was formed with the intention of supporting local economies, encouraging organic farming, and honoring the Dalmatian way of life. Initially, the company was dedicated to importing Croatian chocolate, olives, olive tapenades and extra virgin olive oil.

15. In early summer 2000, Mr. Chupin and Ms. Magee were traveling in Croatia when they encountered a jar of fig preserves that reminded Mr. Chupin of his grandfather's fig preserves he enjoyed as a child. They decided to refocus the company towards creating a new version of Croatian fig preserves and named the product "fig spread."

16. Mr. Chupin and Ms. Magee worked with and paid a food technologist to create the perfect recipe and production process for what is now known as Dalmatia Original Fig Spread. Countless hours were spent creating batches of early versions of the Original Fig Spread in small cookers, adjusting flavor nuances and perfecting texture, consistency and visual appeal, before settling on Dalmatia's first commercially-released spread.

17. In late 2000, Dalmatia introduced the Original Fig Spread in the United States. At the time, it was the only fig spread on the market, effectively inventing a new product name – fig spread – and a new category and niche in cheese departments across the country. It was an instant success.

18. Based on the popularity of the Original Fig Spread, Dalmatia soon expanded its line of spreads to include Orange Fig Spread and Sour Cherry Spread, among others. Developing each of these spreads required many ingredient and process modifications to reach their respectively unique flavors, texture, consistency and appearance.

19. Dalmatia's spreads have gained widespread success and acclaim with consumers, and have won numerous industry awards. For example, the Original Fig Spread won first place for "Best Salsa, Sauce and Condiment" at the 2006 Americas Food and Beverage Show and

Conference, and won the award for "Outstanding Shelf Stable Food Service Product" at the 2010 Fancy Food Show in New York. Orange Fig Spread won the 2004 NASFT Product Award for "Outstanding Jam, Preserve, Spread or Sweet Topping."

II. Dalmatia's Recipes And Production Processes Are Trade Secrets

20. Dalmatia's spreads have achieved this considerable success by virtue of their unique characteristics, which result through a combination of their recipes and production processes. The proprietary recipes are expressed in percentages of ingredients, while the production processes consist of different types of preparation, mixing, and cooking, and are captured in flow charts.

21. The Dalmatia Original Fig Spread, Orange Fig Spread and Sour Cherry Spread that are currently on the market reflect Dalmatia's proprietary recipes and production processes, which Dalmatia does not, and never has, made public. Dalmatia has always been diligent in its efforts to maintain the secrecy of its proprietary information. Dalmatia only shares its recipes and production processes with third parties with whom Dalmatia has entered into a non-disclosure agreement, and even then, limits disclosures to the extent necessary and designates written disclosures as "confidential."

III. Dalmatia Enters Into A Distribution Agreement With FoodMatch, In Furtherance Of Building Dalmatia's Brand

22. In or around spring 2005, Dalmatia sought to expand the company through widened distribution. Dalmatia approached FoodMatch, a distributor of a wide array of antipasto items. Dalmatia believed the Original Fig Spread would be a unique and new complement to FoodMatch's product line, which, at the time, did not include any sweet items.

23. On or around December 22, 2006, Dalmatia entered the Distribution Agreement with FoodMatch. Pursuant to the Distribution Agreement, FoodMatch obtained the exclusive right to distribute Dalmatia's food products in the United States.

24. As part of the Distribution Agreement, FoodMatch agreed not to sell or promote any competitive products similar to Dalmatia's. Paragraph 1(c) of the Distribution Agreement provided, in relevant part, that "FoodMatch agrees that during the Term of this Agreement, it will not sell or promote in the Territory any competitive products that are similar to the Products,[1] or that originate or are held out as being from Croatia." Similarly, paragraph 1(e) of the Distribution Agreement provided that "FoodMatch agrees that it will not manufacture, purchase, or sell products in the Territory that directly compete with the products."

25. The Distribution Agreement also contained an intellectual property clause to protect Dalmatia's intellectual property rights, including Dalmatia's "proprietary rights used in or by Dalmatia in connection with the manufacture, marketing, sale and distribution of the Products," from any improper or unauthorized use by FoodMatch. (Distribution Agreement at ¶ 7(a)). The Distribution Agreement further provided that FoodMatch shall not "perform any act which would be inconsistent with any of Dalmatia's Marks or Intellectual Property or Dalmatia's ownership thereof." (Distribution Agreement at ¶ 7(c)).

IV. Dalmatia And FoodMatch Enter Into A Non-Disclosure Agreement To Protect Dalmatia's Proprietary Recipes And Production Processes

26. In May 2007, FoodMatch sought to have one of its employees tour Dalmatia's United States facility. Concerned that such a tour would result in the disclosure of Dalmatia's

[1] "Products" is defined as "certain branded food products of Dalmatia," as set forth as an exhibit to the Distribution Agreement.

proprietary information, Dalmatia proposed, and FoodMatch agreed, to enter into the Non-Disclosure Agreement.

27. The Non-Disclosure Agreement provides explicit protections for Dalmatia's proprietary recipes and production processes. (Non-Disclosure Agreement at ¶ 1(a), (b)).

28. The Non-Disclosure Agreement's "Objective" is clearly defined:

> WHEREAS the Recipient [FoodMatch] shall evaluate and use such information in order to share it with certain Buyers who request and/or require such information in connection with their purchase of the Food Products from the Recipient for resale by the Buyers to consumers . . . .

29. "Information," as defined in the Non-Disclosure Agreement, includes Dalmatia's "information, recipes, ingredients, formula, methods, lists, reports or presentations" relating to Dalmatia's products. (Non-Disclosure Agreement at ¶ 1(a)).

30. FoodMatch also explicitly recognized in the Non-Disclosure Agreement "the value and importance to [Dalmatia] of such proprietary information and the need to keep it strictly confidential."

31. Paragraph 3 of the non-Disclosure Agreement limits the use of information disclosed under the agreement: "The Recipient shall use the Information solely in connection with the Objective, and ***for no other purpose whatsoever***." (Non-Disclosure Agreement at ¶ 3) (emphasis added).

32. With regard to its term, the Non-Disclosure Agreement:

> "shall remain in force for a period of all times while the Recipient is an authorized distributor of Discloser's Food Products and for three (3) years following the termination of any distributor relationship between the parties."

(Non-Disclosure Agreement at ¶ 5(a)).

V. FoodMatch Campaigns For Access To Dalmatia's Proprietary Recipes And Production Processes

33. FoodMatch sought on numerous occasions access to Dalmatia's confidential and proprietary information.

34. Initially, FoodMatch sought direct access to Dalmatia's proprietary information through its production facilities. As set forth above, FoodMatch sought access to Dalmatia's United States facility in 2007, prompting the parties to enter into the Non-Disclosure Agreement. Then, in September 2010, two of FoodMatch's employees visited Dalmatia's European facility. The FoodMatch employees gained access to the facility and photographed the plant and manufacturing equipment. FoodMatch assured Dalmatia that the photographs would only be used for "educational purposes" for customers.

35. FoodMatch also sought access to Dalmatia's proprietary information by apparently misrepresenting that Dalmatia's customers required such information. FoodMatch repeatedly told Ms. Magee and others at Dalmatia that if Dalmatia did not provide information relating to their recipes and production processes, it would not be able to book new business, as such disclosures were becoming the new industry norm.

36. On or around May 8, 2012, FoodMatch's CEO, Phil Meldrum, told Dalmatia that new FDA and USDA regulations required FoodMatch's retail and foodservice clients to obtain certain information from its food vendors, and that Dalmatia would be required to provide such information or risk losing significant business. In a follow-up e-mail later that day, Meldrum reiterated that providing this information "is the reality of doing business now," and repeated his request for the flow chart detailing the production process for Original Fig Spread in order to consummate a large potential sale.

37. Believing that it was necessary for the business, and that Dalmatia was protected by its Distribution Agreement and Non-Disclosure Agreement with FoodMatch, Dalmatia provided the information requested, reminding FoodMatch in the cover e-mail that the information "is confidential."

38. Then, on December 5, 2012, FoodMatch requested that Dalmatia provide the country of origin and ingredient composition percentages – *i.e.*, the recipes – for the Original Fig Spread and Orange Fig Spread, along with the flow charts detailing their production processes. Again, believing that Dalmatia would lose business if it failed to provide this information, and assured that Dalmatia's proprietary information was protected by its various agreements with FoodMatch, Dalmatia provided FoodMatch the requested information.

39. Finally, on November 24, 2014, FoodMatch contacted a Dalmatia employee, requesting the recipe and flow chart for the Sour Cherry Spread. In a follow up e-mail on December 1, 2014, FoodMatch stated a "customer is waiting on this document/information."

40. FoodMatch repeated its request for the Sour Cherry Spread recipe and flow chart on December 4, 2014, stating that the request is "for a new customer." FoodMatch continued, "[p]lease know that customers are beginning to require full disclosure of food safety documents and are quick to cut products that cannot meet their expectations – this is becoming the industry norm." Dalmatia provided this information to FoodMatch, once again believing Dalmatia's interests were protected.

41. FoodMatch then had all the information necessary to reproduce its own versions of the Original Fig Spread, Orange Fig Spread and Sour Cherry Spread, which FoodMatch, as Dalmatia's distributor, knew to be Dalmatia's three best-selling products.

42. On several occasions, Dalmatia expressed its concern to FoodMatch regarding sharing Dalmatia's confidential and proprietary information. Each time, FoodMatch gave assurances that it was necessary for Dalmatia's success, and that FoodMatch was not trying to create their own competing fruit spreads.

VI. FoodMatch Produces Competing Products Using Dalmatia's Proprietary Recipes And Production Processes

43. Pursuant to the terms of the Distribution Agreement, Dalmatia provided notice in early October 2015 that it would be terminating the Distribution Agreement as of December 31, 2015. After closing out the year with FoodMatch, Dalmatia switched to a new distributor in January 2016.

44. From January 17th to 19th, 2016, Dalmatia representatives attended the annual Fancy Food Show in San Francisco, California. The Fancy Food Show is the largest specialty food trade event on the West Coast and is one of the few occasions Dalmatia has to interact directly with its customers, as opposed to through a distributor.

45. While at the Fancy Food Show, Dalmatia discovered that FoodMatch was marketing its own fruit spreads under the trade name "Divina." FoodMatch's Divina fruit spreads are available in three varieties – fig, orange fig and sour cherry – the same varieties for which FoodMatch obtained Dalmatia's recipes and production processes. The Divina products are also available in the same packaging options offered by Dalmatia – retail and bulk.

46. Dalmatia further learned at the Fancy Food Show that FoodMatch was aggressively and misleadingly marketing its Divina spreads to Dalmatia's customers, and had been doing so prior to the December 31, 2015 termination of the Distribution Agreement. Several of Dalmatia's largest customers reported that FoodMatch misrepresented to them that Dalmatia's spreads were discontinued, and offered them Divina spreads as replacements.

47. Other Dalmatia customers informed Dalmatia that FoodMatch provided them with side-by-side taste test comparisons of Dalmatia and Divina samples and, after establishing that they were comparable products, offered the Divina spreads at a significant discount to Dalmatia's price points.

48. Dalmatia learned that significant customers have switched to carrying FoodMatch's Divina spreads after being approached by FoodMatch and being courted with these false representations and unfair business practices.

49. Yet another customer informed Ms. Magee that it had tested a new brand of fig spread (FoodMatch's) "several months ago," and, going forward, would only be carrying the new spread, which was offered at a significant discount to the prices offered by Dalmatia. Thus, FoodMatch had developed the Divina spreads while still acting as Dalmatia's distributor, notwithstanding the clear prohibition of such conduct in the Distribution Agreement.

50. Upon conducting taste tests, Dalmatia discovered that the Divina spreads share identical flavor profiles and consistencies with their Dalmatia counterparts, clearly indicating that FoodMatch's Divina spreads are utilizing Dalmatia's recipes and production processes.

51. In over 15 years of production, no other company had been able to replicate Dalmatia's fig spread recipes and create Dalmatia's flavor profiles and consistencies. Yet, FoodMatch was able to do so within weeks of the termination of the Distribution Agreement. The only possible conclusion is that FoodMatch was able to launch its Divina spreads within two weeks of the termination of the Distribution Agreement because it had access to Dalmatia's proprietary recipes and production processes.

VII. FoodMatch's Competing Products And Representations To The Marketplace Are Causing Irreparable Harm To Dalmatia's Business

52. With each day that passes, FoodMatch's unauthorized theft of Dalmatia's proprietary recipes and production processes is causing Dalmatia further irreparable harm.

53. Since the Original Fig Spread's introduction, several other fig spreads have been brought to the market by other companies. As of December 2015, Dalmatia maintained the leading fig spread products on the market because of their unique characteristics.

54. Yet FoodMatch's aggressive marketing of its offending products, targeting long-time Dalmatia customers has already left an indelible mark on Dalmatia's business. Dalmatia projected selling over 11,000 cases, collectively, of Original Fig Spread, Orange Fig Spread and Sour Cherry Spread in January 2016, based on similar sales for the month the past two years. However, as a direct result of FoodMatch's tactics, requiring Dalmatia to compete against its own recipes, offered at lower prices, Dalmatia sold only 3,566 cases this January, representing a decline in sales of approximately 68%.

55. The harm does not end there. Dalmatia has invested a tremendous amount of time and money developing its brand and product line and has worked tirelessly to gain the recognition it deserves as a premium supplier of fruit spreads. Dalmatia's reputation, built over the past sixteen years of business, for providing unique, high-quality fruit spreads to consumers is being irreparably harmed by FoodMatch misleading customers into believing that its products are not unique and, worse, have been discontinued.

56. FoodMatch's actions have already resulted in real and tangible harm to Dalmatia's brand and goodwill with long-time customers, who are replacing Dalmatia's products with Divina spreads, which are the same product, but at lower price points. By offering its offending products at a substantial discount, FoodMatch has captured shelf-space with Dalmatia's customers,

effectively pushing Dalmatia spreads off the shelves of retailers around the country. Indeed, FoodMatch has expressed to customers that this is its goal.

57. If FoodMatch is not enjoined from selling its competing Divina fig, orange fig and sour cherry spreads, Dalmatia's future is in immediate jeopardy, and, absent court intervention, is mere months away from going out of business.

FIRST CAUSE OF ACTION
(Misappropriation of Trade Secrets)

58. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 57 as though fully set forth herein.

59. Dalmatia's recipes and production processes relating to its Original Fig Spread, Orange Fig Spread and Sour Cherry Spread are proprietary trade secrets and Dalmatia has taken substantial measures to maintain their secrecy.

60. Through its manufacture, sale, and promotion of its Divina brand fig spread, fig orange spread and sour cherry spread, FoodMatch has misappropriated Dalmatia's proprietary trade secrets in breach of the parties' Distribution Agreement and the Non-Disclosure Agreement.

61. As a direct and proximate result of the wrongful conduct of FoodMatch, Dalmatia has suffered and continues to suffer irreparable injury.

62. As a direct and proximate result of the wrongful conduct of FoodMatch, Dalmatia has suffered and continues to suffer money damages.

63. FoodMatch's conduct was knowing, intentional, willfully and wantonly reckless, malicious and/or grossly negligent, which justifies an award of punitive damages, in addition to compensatory damages.

64. By reason of the above, Dalmatia is entitled to the return of its proprietary recipes and production process information from FoodMatch, to preliminarily and permanently enjoin FoodMatch from disclosing or further using or benefiting from Dalmatia's proprietary recipes and production process information in any form, including, but not limited to, enjoining its manufacture, sale and/or promotion of its Divina brand fig spread, orange fig spread and sour cherry spread, the disgorgement of FoodMatch's unjust enrichment, and punitive damages in an amount to be determined by the trier of fact in addition to any costs and fees, with interest, related to the prosecution of this action.

SECOND CAUSE OF ACTION
(Breach of Contract – Distribution Agreement)

65. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 57 as though fully set forth herein.

66. On or about December 22, 2006, Dalmatia and FoodMatch entered into the Distribution Agreement, which is a valid and enforceable contract.

67. At all relevant times, Dalmatia performed its duties under the Distribution Agreement.

68. FoodMatch breached its obligations under the Distribution Agreement by using Dalmatia's proprietary trade secrets in the manufacture, sale and/or promotion of its Divina brand fig spread, orange fig spread and sour cherry spread, and by manufacturing, selling and/or promoting its Divina line of competing fruit spreads during the term of the Distribution Agreement.

69. As a direct and proximate result of the wrongful conduct by FoodMatch, Dalmatia has suffered and continues to suffer irreparable injury.

70. As a direct and proximate result of the wrongful conduct by FoodMatch, Dalmatia has suffered and continues to suffer substantial money damages.

71. By reason of the above, Dalmatia is entitled to the return of its proprietary recipes and production process information from FoodMatch, to preliminarily and permanently enjoin FoodMatch from disclosing or further using or benefiting from Dalmatia's proprietary recipes and production process information in any form, including, but not limited to, enjoining its manufacture, sale and/or promotion of its Divina brand fig spread, orange fig spread and sour cherry spread, and the disgorgement of FoodMatch's unjust enrichment in an amount to be determined by the trier of fact in addition to any costs and fees, with interest, related to the prosecution of this action.

THIRD CAUSE OF ACTION
(Breach of Contract – Non-Disclosure Agreement)

72. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 57 as though fully set forth herein.

73. On or about May 14, 2007, Dalmatia and FoodMatch entered into the Non-Disclosure Agreement, which is a valid and enforceable contract.

74. At all relevant times, Dalmatia performed its duties under the Non-Disclosure Agreement.

75. Defendant FoodMatch breached its obligations under the Non-Disclosure Agreement by using Dalmatia's proprietary trade secrets in the manufacture, sale and/or promotion of its Divina brand fig spread, orange fig spread and sour cherry spread.

76. As a direct and proximate result of the wrongful conduct by FoodMatch, Dalmatia has suffered and continues to suffer irreparable injury.

77. As a direct and proximate result of the wrongful conduct by FoodMatch, Dalmatia has suffered and continues to suffer substantial money damages.

78. By reason of the above, Dalmatia is entitled to the return of its proprietary recipes and production process information from FoodMatch, to preliminarily and permanently enjoin FoodMatch from disclosing or further using or benefiting from Dalmatia's proprietary recipes and production process information in any form, including, but not limited to, enjoining its manufacture, sale and/or promotion of its Divina brand fig spread, orange fig spread and sour cherry spread, and the disgorgement of FoodMatch's unjust enrichment in an amount to be determined by the trier of fact in addition to any costs and fees, with interest, related to the prosecution of this action.

FOURTH CAUSE OF ACTION
(Unfair Competition)

79. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 57 as though fully set forth herein.

80. By its wrongful acts, FoodMatch, in bad faith, knowingly misappropriated Dalmatia's confidential and proprietary information for use in its business through the manufacture, sale and/or promotion of its Divina brand fig spread, orange fig spread, and sour cherry spread.

81. As a direct and proximate result of the wrongful conduct by FoodMatch, Dalmatia has suffered and continues to suffer irreparable injury.

82. As a direct and proximate result of the wrongful conduct by FoodMatch, Dalmatia has suffered and continues to suffer substantial money damages.

83. By reason of the above, Dalmatia is entitled to the return of its proprietary recipes and production process information from FoodMatch, to preliminarily and permanently enjoin FoodMatch from disclosing or further using or benefiting from Dalmatia's proprietary recipes and production process information in any form, including, but not limited to, enjoining its

manufacture, sale and/or promotion of its fig spread, orange fig spread and sour cherry spread, and the disgorgement of FoodMatch's unjust enrichment in an amount to be determined by the trier of fact in addition to any costs and fees, with interest, related to the prosecution of this action.

THE WANTONNESS OF DEFENDANT'S WRONGFUL CONDUCT

84. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 57 as though fully set forth herein.

85. FoodMatch's conduct alleged herein is intentional, outrageous and exhibits a high degree of moral culpability. FoodMatch has acted with a fraudulent motive and has consistently, willfully and wantonly disregarded Dalmatia's rights. FoodMatch has used and continues to use Dalmatia's confidential and proprietary trade secret recipes and production processes and/or information derived directly therefrom in developing its line of Divina fruit spreads.

86. Likewise, FoodMatch acted with a fraudulent motive in deceiving Dalmatia's customers into believing that Dalmatia discontinued its Original Fig Spread, Orange Fig Spread and Sour Cherry Spread, and in otherwise misleadingly and aggressively targeting Dalmatia's customers in an effort to drive Dalmatia out of business.

87. FoodMatch's conduct was knowingly, intentional, willfully and wantonly reckless, malicious, and/or grossly negligent, which justifies an award of punitive damages, in addition to compensatory damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Dalmatia respectfully requests this Court to:

(i) Preliminarily and permanently enjoin FoodMatch (including its officers, directors, employees, agents, and all persons acting in concert with them) from using or benefiting, directly or indirectly, from the use of Dalmatia's confidential and proprietary trade secret information, including, but not limited to, preventing any further manufacture, sale and/or promotion of Divina brand fig spread, orange fig spread, and sour cherry spread;

(ii) Preliminarily and permanently enjoin FoodMatch (including its officers, directors, employees, agents, and all persons acting in concert with them) to immediately return all of Dalmatia's confidential and proprietary trade secret information in their possession, custody or control;

(iii) Order that FoodMatch (including its officers, directors, employees, agents, and all persons acting in concert with them) immediately destroy and to certify under oath the destruction of all materials derived in any way directly or indirectly, in whole or in part, from any of Dalmatia's confidential and proprietary trade secret information, including, but not limited to, the Divina brand line of fig spread, orange fig spread, and sour cherry spread;

(iv) Order FoodMatch to pay Dalmatia compensatory damages in an amount to be proven at trial;

(v) Order FoodMatch to disgorge all unjust enrichment as a result of their taking and use of Dalmatia's confidential and proprietary trade secret information;

(vi) Order FoodMatch to pay punitive damages in the maximum amount permitted by law; and

(vii) Order such other and further relief as this Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all counts of its Complaint so triable.

Dated: New York, New York
February 8, 2016

Respectfully submitted,

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